

HUMAN SERVICES

DIVISION OF YOUTH AND FAMILY SERVICES

Case Management

Proposed Readoption with Admendments: N.J.A.C. 10:133D

Authorized By: Gwendolyn L. Harris, Commissioner, Department of
Human Services.

Authority: N.J.S.A. 30:4C-4(h) and 25 and 9:6-8.15.

Calendar Reference: See Summary below for explanation of exception to
calendar requirement.

Proposal Number: PRN 2003-452.

Submit written comments by January 2, 2004 to:

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The agency proposal follows:

Summary

Pursuant to Executive Order No. 66(1978), N.J.A.C. 10:133D, Case Management, will expire on October 8, 2003. Pursuant to N.J.S.A. 52:14B-5.1c, this date is extended to April , 2004. The Division has reviewed these rules and has determined that they continue to be necessary, proper and reasonable for the purpose for which they were originally promulgated, as required by Executive Order No. 66(1978).

The Department has provided a 60-day comment period on this notice of proposal. Therefore, this proposal is exempted from the rulemaking calendar requirements in accordance with N.J.A.C. 1:30-3.3(a)5.

These rules were initially adopted in 1993 and were readopted with amendments in 1998. Most of those amendments were made to bring the rules in compliance with the Federal Adoption and Safe Families Act of 1997, Pub. L. 105-89, which amended Titles IV-B and IV-E of the Social Security Act.

The Division has amended N.J.A.C. 10:133D-2.4(a)2 and 3 to reflect current practice. When a child goes into out-of-home placement based on the informed consent of his or her parents, the case plan is completed when the informed consent is signed by the parents, i.e., within 15 business days of the placement. N.J.A.C. 10:133D-2.4(a)3 now states that. N.J.A.C. 10:133D-2.4(a)2 has been amended to allow a case plan to be completed

within 30 days of placement when the out-of-home placement is based on a court order.

N.J.A.C. 10:133D-2.4(c) has been amended to state that the case plan may be revised if the case situation shows significant change. This gives more direction to the Division's staff than the previous wording.

N.J.A.C. 10:133D-2.6(b) has been amended to state that paragraphs 1 through 4 are listed in descending order of preference.

The Division is proposing to amend N.J.A.C. 10:133D-2.7(a)5 and (b)10 to clarify that the behavioral and other changes expected from each person are recorded in the case plan.

The Division is changing the term "voluntary agreement" to "informed consent agreement" at N.J.A.C. 10:133D-2.7(b)1. While these terms have the same meaning, informed consent agreement is the term currently in use by the Division. Informed consent is defined in the proposed new rules, N.J.A.C. 10:133, proposed concurrent with this proposed readoption.

Additional changes have been made to N.J.A.C. 10:133D-2.7(b) and (c) to more completely reflect the Title IV-E requirements on States for children in out-of-home placements. N.J.A.C. 10:133D-2.7(b)4 has been amended to add that the case plan assures that the child receives safe and appropriate care.

The Division has added that the appropriateness of services provided to a child must be included in the case plan in N.J.A.C. 10:133D-2.7(b)11 to correspond to the Title IV-E requirements.

N.J.A.C. 10:133D-2.7(b)12 through 17 are new paragraphs added to include additional Title IV-E case plan requirements.

The Division has expanded N.J.A.C. 10:133D-2.7(c) to include the steps the Division representative is taking to develop an alternative permanent plan for a child. These amendments are in agreement with the Federal Title IV-E language.

N.J.A.C. 10:133D-2.7(d) has been amended to reference N.J.S.A. 30:4C-15.3b which was enacted subsequent to the last amendment to this chapter. The subsection previously listed the reasons to file a petition to terminate parental rights pursuant to the Federal Title IV-E statute and then stated that the compelling reasons to make an exception to filing the petition must be entered in the case plan. The amendment states that the information must be in the case plan when the Division has a compelling reason not to file a petition in court to terminate parental rights. The reasons to file a petition to terminate parental rights are now contained in State law, N.J.S.A. 30:4C-15, so they are no longer necessary here.

The Division is combining the definitions for the two types of para homes in N.J.A.C. 10:133D-3.4(b) and 3.6(d). The distinction between the two types of para homes is irrelevant in the context of this subchapter.

The Division is adding that one of the purposes of an in-person visit is to obtain information about and the concerns of a child in out-of-home placement from the child himself or herself at N.J.A.C. 10:133D-3.5(a)5.

At N.J.A.C. 10:133D-3.6(d), the Division is changing the final level of approval required to allow an in-person visitation schedule of once every six months instead of a more frequent in-person visitation schedule, for four specific situations. Final approval will be required by the Assistant Director, Program or Adoption Operations, instead of the office manager, because of the importance of regular in-person visitation of children and their out-of-home placement providers.

N.J.A.C. 10:133D-3.6(d)1 is amended to substitute a specific in-person visitation schedule for the previously-cited “frequent” in-person visits.

The Division has included the statutory citation for the Long-Term Foster Care Custody Act at N.J.A.C. 10:133D-3.6(d)2.

The Division has amended N.J.A.C. 10:133D-3.7 for clarification regarding additional in-person visits within five working days of a child’s out-of-home placement. The Division representative must visit the child and the out-of-home placement provider, as well as the prior custodial parent. The five working days requirement for visiting the prior custodial parent has been removed from N.J.A.C. 10:133D-3.7(a)3, as it is already stated in paragraph 1.

N.J.A.C. 10:133D-3.9(a) has been amended to clarify that the Division representative must actually speak by telephone with a child within five days of placement in a treatment-based out-of-home placement program.

N.J.A.C. 10:133D-3.9(b) has been amended to agree with N.J.A.C. 10:127-6.1(d) and 128-6.1(d) which require that the initial treatment plan be developed within 30 calendar days of the child's admission.

The Division has amended N.J.A.C. 10:133D-3.10 for clarification. An initial in-person visit must be completed within 20 working days of a Division representative's assignment to a newly open case.

N.J.A.C. 10:133D-3.11 has been amended to include the reason that a Division representative may interview a child alone.

A summary of the rules proposed for readoption follows:

N.J.A.C. 10:133D-2.1 states the purpose of the subchapter.

N.J.A.C. 10:133D-2.2 states the scope of the subchapter.

N.J.A.C. 10:133D-2.3 references the definitions of terms used in the subchapter.

N.J.A.C. 10:133D-2.4 states when a case plan is developed.

N.J.A.C. 10:133D-2.5 states who participates in the development of the case plan.

N.J.A.C. 10:133D-2.6 states the process used to develop the case plan.

N.J.A.C. 10:133D-2.7 states the contents of the case plan.

N.J.A.C. 10:133D-2.8 states who shall receive a copy of the case plan.

N.J.A.C. 10:133D-3.1 states the Division's authority to visit children under the Division's supervision.

N.J.A.C. 10:133D-3.2 states the purpose of the subchapter.

N.J.A.C. 10:133D-3.3 states the scope of the subchapter.

N.J.A.C. 10:133D-3.4 states the definitions used in the subchapter.

N.J.A.C. 10:133D-3.5 states the purpose of in-person visits.

N.J.A.C. 10:133D-3.6 states the criteria used to establish an in-person visit schedule.

N.J.A.C. 10:133D-3.7 states information about additional in-person visits when a child is placed outside of his or her home.

N.J.A.C. 10:133D-3.8 states when an in-person visit takes place after a child's change of placement.

N.J.A.C. 10:133D-3.9 states the requirements for in-person visits with children placed in a treatment-based out-of-home placement program.

N.J.A.C. 10:133D-3.10 states when an initial in-person visit is made.

N.J.A.C. 10:133D-3.11 states that a Division representative may interview a child alone during an in-person visit.

Social Impact

These rules affect each of the children receiving services from the Division, their families, and their out-of-home placement providers. As of April 4, 2003, there were 53,995 children receiving services, 9076 of whom were in out-of-home placement. Each child receiving services must have a case plan and receive in-person visits. Parents and out-of-home placement providers also receive in-person visits and participate in developing the case plan.

These rules have a positive effect on clients because they assure DYFS clients the opportunity to take part in the development of the case

plan and to have regular visits with the Division representative. The visits with the Division representative are extremely important as they are a primary means of communication about the progress toward meeting the case goal.

The rules requiring case plans and in-person visits have been effective since 1993. The actions required by the rules have generated no negative response from the public.

The rules continue to be necessary in order to ensure clients and out-of-home placement providers their rights to in-person visits and case plan participation.

Economic Impact

The rules have no economic impact on the clients and out-of-home placement providers that they affect.

The rules do have an on-going effect on the Division's income. The Division receives Federal appropriations under the Federal Social Security Act. The 2004 Federal Title IV-E appropriation is \$98.2 million. The 2004 Federal Title IV-B appropriation is \$7 million.

The rules support Federal requirements for each child in placement to have a case plan and be reviewed by a case review system. This includes in-person visitation of children placed outside of the State. These

requirements are in 42 U.S.C. 622(b)(10)(B)(ii), 671(a)16, 675(l), 675(5)(A)(ii), 675(5)(E).

Federal Standards Statement

In order to receive Federal appropriations under Titles IV-B and IV-E of the Social Security Act, the State must have a state plan requiring a case plan and a case review for each child in out-of-home placement at 42 U.S.C. 671(a)(16) and 622(b)(10)(B)(ii). The terms case plan and case review system are defined at 42 U.S.C. 675(l) and (5).

42 U.S.C. 675(5)(A)(ii) requires that the case plan contain a report about each visit to a child's residence when he or she is placed out-of-State.

The rules proposed for readoption with amendments do not exceed Federal standards or requirements, and a Federal exceedance analysis is not required for this rulemaking.

I, Commissioner Gwendolyn L. Harris, certify that the above analysis permits the public to understand accurately and plainly the purposes and expected consequences of this rulemaking activity.

Gwendolyn L. Harris

Commissioner

Date

Jobs Impact

The Division does not expect that the rules proposed for readoption with amendments will result in the generation or loss of any job.

Agriculture Industry Impact

The rules proposed for readoption with amendments have no impact on the agriculture industry.

Regulatory Flexibility Statement

Neither the Division, nor the Division's clients are considered a small business under the terms of N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act. Most of the Division's out-of-home placement providers are not businesses. They are licensed foster parents providing care for foster children individually in their own homes. They are not employees of the Division. There are out-of-placement facilities that may be considered small businesses under the statutory definition, such as group homes and treatment-based out-of-home placement programs. Even though some are small businesses, the requirements of the proposed rules do not impose reporting, recordkeeping or compliance requirements on any

out-of-home placement providers. Therefore, a regulatory flexibility statement is not necessary. The proposed readoption of rules states the Division's policies on case plans and in-person visits.

Smart Growth Impact

The Division does not anticipate that the rules proposed for readoption will have any impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.